

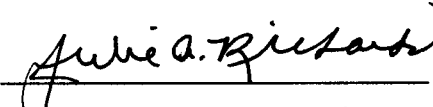
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Procedure, “[a] money judgment is enforced by a writ of execution, unless the court directs otherwise. The procedure on execution- and in proceedings supplementary and in aid of judgment or execution-must accord with the procedure of the state where the court is located, but a federal statute governs to the extent that it applies.” Fed. R. Civ. P. 69(a)(1). In the absence of an applicable federal statute, North Carolina law governs plaintiff’s efforts to collect the judgment. The local civil rules of this court provide that “[a]ll acts and duties pertaining to the seizure of person or property as provided by the State of North Carolina authorized to be done by a judge or clerk of the state may be done in like cases by a judge of this court or the clerk of this court, respectively.” Local Civil Rule 64.1.

To proceed with his collection efforts, plaintiff may file with the clerk of this court an application for writ of execution. The writ of execution package is posted on the court’s website at <http://www.nced.uscourts.gov/forms>. The package includes the proposed writ of execution, notice of right to have exemptions designated, and notice to claim exempt property (statutory exemptions). A copy of the writ of execution package is attached to this order. Plaintiff must complete and file the forms in this case and serve defendants pursuant to Rule 5 of the Federal Rules of Civil Procedure.

For the reasons stated, the motion to enforce judgment is denied without prejudice [D.E. 108]. Plaintiff may apply for a writ of execution to collect his restitutionary damages from defendants.

SO ORDERED. This 21st day of March 2014.


Julie A. Richards, Clerk of Court

ATTACHMENT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

Plaintiff Address	Case Number: _____
VERSUS	EXECUTION (Rule 69, F.R.Cv.P. and G.1-313(1); GS.1C, Art. 16)
Defendant Address	Defendant Address

TO THE UNITED STATES MARSHAL:

By the terms of a judgment rendered in favor of _____

against, _____ the following sums are now due:

Principal \$ 0	Interest to date 0	Court Costs \$ 0	Other 0	Total: \$ 0
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For the United States Marshal's fees (see 28 U.S.C. § 1921) - \$ 0. Post-Judgment interest is computed on the principal at the legal rate from the date shown below:

Date from which interest due:	Legal rate of interest:	Date Judgment entered on docket:
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You are commanded to satisfy the judgment

☒ By demanding payment from the defendant

☐ Out of the personal property of the defendant, and if sufficient property cannot be found, then out of the real property belonging to the defendant on the day the judgment was entered on the docket of this Court as shown above or any time after that date.

☐ Except as to property set off as exempt (a list of which is attached) out of the personal property of the defendant within your district, and if sufficient personal property cannot be found, then out of real property belonging to the defendant on the day the judgment was docketed in this court as shown above or any time after that date.

☐ Out of the property listed below which is excepted by law from the exemptions:

Description of property excepted from exemptions (if applicable)

Additional order for satisfying judgment

Date Issued: _____

This writ must be returned
within 90 days after the
date of issue.

Signature: _____

☒
☐

Clerk, U.S. District Court
Deputy Clerk

EDNC (12/09)

EASTERN DISTRICT OF NORTH CAROLINA UNITED STATES DISTRICT COURT		File No. _____ <div style="text-align: center; font-size: 2em; font-weight: bold; margin-top: 20px;"> NOTICE OF RIGHT TO HAVE EXEMPTIONS DESIGNATED </div> <div style="text-align: right; font-size: 0.8em; margin-top: 20px;"> N.C.G.S IC-1603 </div>
<i>Name of Plaintiff</i> <div style="text-align: center; font-weight: bold; margin: 10px 0;">VERSUS</div> <i>Name of Defendant</i>		
TO: <i>Name and Address of First Judgment Debtor</i>	TO: <i>Name and Address of Second Judgment Debtor</i>	
<p>A judgement has been entered against you in the case captioned above in which you have been ordered to <input type="checkbox"/> pay money over <input type="checkbox"/> turn over various household belongings to the judgment creditor.</p> <p>The judgment creditor (person who has the judgment against you) is now seeking to collect this judgment and has asked me to give you notice of your rights. Under the Constitution and laws of North Carolina, you have the right to exempt from the collection of the judgment certain of your property (in other words, to keep it from being taken away from you). If you wish to keep your exempt property, you MUST fill out the attached Motion to Claim Exempt Property and mail or take it to the Clerk of Court at the address listed below. You MUST also mail or take a copy to the judgment creditor at his address listed below. The law gives you another option of requesting, in writing, a hearing before the Clerk to claim your exemptions. If you make a written request for a hearing, you will be notified of the time and place of the hearing when you may claim your exemptions.</p> <p>It is important that you respond to this Notice no later than twenty (20) days after it was served on you because you will lose valuable statutory rights if you do nothing. If you do not respond, you will give up your right to statutory exemptions and the judgment creditor may be able to take any or all of your property to satisfy the judgment. You have certain constitutional rights you may claim if you give up your statutory rights. You may wish to consider hiring an attorney to help you with this proceeding to make certain that you receive all the protections to which you are entitled.</p>		
<i>Name and Address of Judgment Creditor or Attorney</i> <i>Telephone No:</i> _____	<i>Date</i> _____ <i>Signature</i> _____ <i>Clerk of Court</i> _____ <i>Address of the Clerk of Court</i> _____	

NOTICE TO THE JUDGMENT CREDITOR

You may serve this Notice and the Motion to Claim Exempt Property by mailing a copy of each, registered or certified mail, return receipt requested, addressed to the judgment debtor. To prove service, you must file an affidavit (notarized by a notary public) with the Clerk asserting that (1) a copy of the notice of rights and Motion to Claim Exempt Property was deposited in the U.S. Mail for mailing by registered or certified mail, return receipt requested; (2) it was in fact received as evidenced by the attached registry receipt or other evidence of delivery; and (3) the genuine receipt or other evidence of delivery is attached. You must attach the U.S. Mail delivery receipt to the affidavit. Alternatively, service of the motion may be effected by any person who is not a party and who is at least 18 years of age following the procedures set forth in Federal Rules of Civil Procedures 4(e)(2). If your attempted service by certified or registered mail or personal service fails, you may then serve the judgment debtor by mailing a copy of the notice and motion to him at his last known address. To prove service, you must file a certificate with the Clerk that the notice and motion were served, indicating why you used such service, the date the notice was mailed and the address to which it was mailed. Remember, you may NOT use service by regular first class mail until you have tried first to serve the judgment debtor personally or by certified or registered mail and such service was unsuccessful.

RETURN OF SERVICE

I certify that this Notice and a copy of a motion to claim exempt property were received and served as follows:

JUDGMENT DEBTOR 1

Date Served

Name of Judgment Debtor

- ☒ By delivering to the judgment debtor named above a copy of the notice and motion to claim exempt property.
- ☐ By leaving a copy of the notice and motion to claim exempt property at the dwelling house or usual place of abode of the judgment debtor named above with a person of suitable age and discretion then residing therein.

Name and Address of Person with Whom Copies Left

- ☐ Other manner of service (specify)

JUDGMENT DEBTOR 2

Date Served

Name of Judgment Debtor

- ☒ By delivering to the judgment debtor named above a copy of the notice and motion to claim exempt property.
- ☐ By leaving a copy of the notice and motion to claim exempt property at the dwelling house or usual place of abode of the judgment debtor named above with a person of suitable age and discretion then residing therein.

Name and Address of Person with Whom Copies Left

- ☐ Other manner of service (specify)

Signed:

Person Making Return (Printed)

EASTERN DISTRICT OF NORTH CAROLINA UNITED STATES DISTRICT COURT		File No. ➡
<i>Judgment Creditor (Plaintiff)</i> <div style="text-align: center; padding: 5px;">VERSUS</div> <i>Judgment Debtor (Defendant)</i>	<h2 style="margin: 0;">NOTICE TO CLAIM EXEMPT PROPERTY (STATUTORY EXEMPTIONS)</h2>	
<small>N.C.G.S. 1C -1603(e)</small>		
NOTE TO DEBTOR (DEFENDANT): <i>The Clerk of Court cannot fill out this form for you. If you need assistance, you should talk with an attorney.</i>		
I, the undersigned, move to set aside the property claimed below as exempt.		
1. I am a citizen and resident of _____ and was born on _____.		
2. <input checked="" type="checkbox"/> I am married to _____ <input type="checkbox"/> I am not married.		
3. My current address is _____ _____		
4. The following persons live in my household and are dependent on me for support:		
<i>Name(s) of Person(s) Dependent on Me</i>	<i>Age</i>	<i>Relationship</i>
5. I wish to claim as exempt (<i>keep from being taken</i>) my interest in the following real or personal property that I use as a residence. I also wish to claim my interest in the following burial plots for myself or my dependents. I understand that my total interest claimed in the residence and burial plots may not exceed \$35,000.00 (\$60,000 if I am 65 years of age or older and I previously owned my property as a tenant by the entireties or as a joint tenant with rights of survivorship and my former co-owner is deceased).		
<i>Street Address of Residence</i>		
<i>County Where Property Located</i>	<i>Township</i>	<i>No. by Which Tax Assessor Identifies Property</i>

Legal Description (Attach a copy of your deed or other instrument of conveyance or describe property in as much detail as possible. Attach additional sheets if necessary.)				
Name(s) of Owner(s) of Record of Residence			Estimated Value of Residence (What You Think You Could Sell It For)	
Amount of Lien(s) and Name(s) and Address(es) of Lienholder(s) <i>(How much money is owed on the property and to whom.)</i>			Current Amount Owed	
			\$	
			\$	
Location of Burial Plots Claimed			Value of Burial Plots Claimed	
			\$	
<p>6. I wish to claim the following personal property consisting of household furnishings, households goods, wearing apparel, appliances, books, animals, crops or musical instruments as exempt from the claim of my creditors (in other words, keep them from being taken from me). These items of personal property are held primarily for my personal, family or household use.</p> <p>I understand that I am entitled to personal property worth the sum of \$5,000.00. I understand that I am also entitled to an additional \$1,000.00 for each person dependent on me for support, but not to exceed \$4,000.00 for dependents. I further understand that I am entitled to this amount after deducting from the value of the property the amount of any valid lien or security interest. Property purchased within 90 days of this proceeding may not be exempt. (Some examples of household goods would be TV, appliances, furniture, clothing, radios, record players.)</p>				
Item of Property	Fair Market Value (What You Could Sell It For)	Amount of Lien Or Security Interest (Amount Owed on Property)	Name(s) of Lienholders(s) (To Whom Money is Owed)	Value of Debtor's (Defendant's) Interest (Fair Market Value Less Amount Owed)
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$
<p>7. I wish to claim my interest in the following motor vehicle as exempt from the claim of my creditors. I understand that I am entitled to my interest in one motor vehicle worth the sum of \$3,500.00 after deduction of the amount of any valid liens or security interests. I understand that a motor vehicle purchased within 90 days of this proceeding may not be exempt.</p>				
Make and Model		Year	Name(s) of Title Owner of Record	
Fair Market Value (What You Could Sell It For)			Name(s) of Lienholder(s) or Record (Person(s) to Whom Money is Owed)	
Amount of Liens (Amount Owed)			Value of Debtor's (Defendant's) Interest (Fair Market Value Less Amt. Owed)	

8. (This item is to claim any other property you own that you wish to exempt.) I wish to claim the following property as exempt because I claimed residential real or personal property as exempt that is worth less than \$35,000.00 or I made no claim for a residential exemption under section (5) above. I understand that I am entitled to \$5,000.00 in any property only if I made no claim under section (5) above or a claim that was less than \$35,000.00 under section (5) above. I understand that I am entitled to claim any unused amount that I was permitted to make under section (5) above up to a maximum of \$5,000 in any property. (Examples: if you claim \$34,000.00 under section (5), \$1,000.00 allowed here; if you claim \$30,000.00 under section (5), \$5,000 allowed here; if you claim \$35,000 under section (5), no claim allowed here.) I further understand that the amount of my claim under this section is after the deduction from the value of this property of the amount of any valid lien or security interests and that tangible personal property purchased within 90 days of this proceeding may not be exempt.

Item Of Personal Property Claimed	Fair Market Value	Amount of Liens	Name(s) of Lienholder(s)	Value of Debtor's (Defendant's) Interest
	\$	\$		\$
	\$	\$		\$
	\$	\$		\$

Real Property Claimed (I understand that if I wish to claim more than one parcel, I must attach additional pages setting forth the following information for each parcel claimed as exempt.)

Street Address		Estimated Value of Property (What You Could Sell It For)
		\$
County	Township	No. by Which Tax Assessor Identifies Property

Description (Attach a copy of your deed or other instrument of conveyance or describe the property in as much detail as possible)

Name and Address of Lienholder	Current Amount Owed
	\$
Name and Address of Lienholder	Current Amount Owed
	\$

(Attach additional sheets for more lienholders)

9. I wish to claim the following item of health care aid necessary for ☒ myself ☐ my dependents.

Item	Purpose

10. I wish to claim the following implements, professional books, or tools (not to exceed \$2,000.00), of my trade or the trade of my dependent. I understand that such property purchased within 90 days of this proceeding may not be exempt.

Item	Estimated Value (What You Could Sell It For)	What Business or Trade Used In
	\$	
	\$	
	\$	

11. I wish to claim the following life insurance policies whose sole beneficiaries are my spouse and/or children as exempt		
Name of Insurer	Policy No.	Beneficiary(ies)
12. I wish to claim as exempt the following compensation that I received or which I am entitled for the personal injury of myself or a person upon whom I was dependent for support, including compensation from a private disability policy or annuity, or compensation that I received for the death of a person upon whom I was dependent for support. I understand that this compensation is not exempt from claims for funeral, legal, medical, dental, hospital or health care charges related to the accident or injury that resulted in the payment of the compensation to me. I understand that if I wish to claim more than one amount of compensation exempt, I must attach additional pages setting forth the following information for each amount of compensation claimed exempt.		
Amount of Compensation \$	Method of Payment: Lump Sum or Installments (If Installments, State Amount, Frequency and Duration of Payments)	
Location/Source of Compensation	Name of Person(s) injured or killed giving rise to compensation	
Unpaid Debts arising out of the injury or death giving rise to compensation (include names, addresses, services rendered and amount of debt)		
13. I wish to claim as exempt the following retirement plans that I have that are individual retirement plans as described in the Internal Revenue Code or that are treated in the same manner as an individual retirement plan under the Internal Revenue Code, including individual retirement accounts and Roth retirement accounts as described in section 408(a) and section 408A of the Internal Revenue Code, individual retirement annuities as described in section 408(b) of the Internal Revenue Code, and accounts established as part of a trust described in section 408(c) of the Internal Revenue Code.		
Type of Retirement Account	Name of Account	Account Number
14. I wish to claim as exempt the following funds I hold in a college savings plan that is qualified under section 529 of the Internal Revenue Code, not to exceed \$25,000. I understand that this plan must be used for the child's college expenses. I understand I may not exempt any funds I placed in this account within the preceding 12 months, except to the extent that any contributions were made in the ordinary course of my financial affairs and were consistent with my past pattern of contributions.		
College Savings Plan	Account Number	Name(s) of Child(ren) Beneficiaries

15. I wish to claim as exempt the following retirement benefits to which I am entitled to under the retirement plans of other states and governmental units of other states. I understand that these benefits are exempt only to the extent these benefits are exempt under the laws of the state or governmental unit under which the benefit plan was established.

State/Governmental Unit	Name of Retirement Plan	Identifying Number

16. I wish to claim as exempt any alimony, support, separate maintenance, or child support payments or funds that I have received or that I am entitled to receive. I understand that these payments are exempt only to the extent that they are reasonably necessary for my support or for the support of a person dependent on me for support.

Type of Support	Person Paying Support	Amount & Location of Funds

17. The following is a complete listing of all of my assets that I have not claimed as exempt under any of the preceding paragraphs.

Item	Location	Estimated Value
		\$
		\$
		\$
		\$

18. The following is a complete list of persons or business that have judgments for money against me.

19. I certify that the above statements are true.

Date

Signature of Judgment Debtor (Defendant)

20. A copy of this Motion was served on the judgment creditor (plaintiff) by:

☒ delivering a copy to the judgment creditor (plaintiff) personally.

☐ delivering a copy to the judgment creditor's attorney.

☐ depositing a copy of this motion in a post-paid properly addressed wrapper in a U.S. Mail, addressed to the judgment creditor (plaintiff) at the address shown on the notice of rights served on me.

☐ depositing a copy of this Motion in a post-paid properly addressed wrapper in a U.S. Mail, addressed to the judgment creditor's (plaintiff's) attorney at the following address:

Date

Signature of Judgment Debtor/Attorney for Debtor (Defendant)

Address and Phone No. of Attorney for Debtor (Defendant)